CRP 412/2006
BEFORE

THE HON’BLE MR.JUSTICE HN SARMA

Heard Mr P Roy, learned counsel for the petitioner.

The challenge made in this revision petition is the Judgment and Order dated 31.7.2006 passed in Title Suit No 39/2004 passed by the learned Civil Judge Munsiff No 1, Cachar, Silchar, thereby decreeing the suit of the plaintiff, filed under Section 6 of the Specific Relief Act, 1963. The further challenge made by the petitioner in this petition is an order-dated 31.3.2006 passed by the learned trial Court in the aforesaid suit rejecting the prayer for local inspection of the suit land. At the time of hearing, Mr Roy has submitted that he has abandoned the challenge of the Judgment and order dated 31.7.2006 but confines to his challenge to the order-dated 31.3.2006.

By the aforesaid order dated 31.3.2006, the learned trial Court rejected the petition filed under Order 18, Rule 18 read with Section 151 of the CPC, praying for inspection of the suit land by the Court. The learned trial Court rejected the said prayer on the ground that the suit was fixed for final Judgment on that very date and the petitioner has prayed for such local inspection at a much belated stage, which do not justify for such local inspection.

The plaintiff instituted the aforesaid suit claiming for recovery of possession of the suit land, which was delivered to him in execution of the decree passed by the competent Civil Court in Title Execution Case No 1/2003, after finalisation of the matter in the second appeal by the High Court. In the aforesaid Execution Case, the decretal land was delivered to the plaintiff/respondents with the help of armed Police on 18.11.2003 by the bailiff of the Court and the decree was thus satisfied. However, the defendants along with some rowdy elements, again dispossessed the plaintiff from the suit land on 14.12.2003 by applying force which necessitated the plaintiff to institute the suit for recovery of possession under Section 6 of the Specific Relief Act, 1963.

The defendants/petitioners contested the suit by filing written statement in the month of October 2004. Although Mr Roy tried to make out a point that the suit land being different from the land to which the petitioner was put back in possession in the execution of the decree and is situated on the other part of the River Barak, no whisper of such claim has been made either in the written statement, or in the application for the local inspection. There is no proof of such fact in the suit. In my considered opinion, no jurisdictional error has been made by the learned trial Court in passing the order refusing to inspect the suit land locally. The learned counsel has also not challenged the Judgment and decree passed in Title Suit No 39/2004 dated 31.7.2006, consequently, this Court is not required to make a scrutiny of the validity of the Judgment. A local inspection is required to be made if there is apparent difficulty in identification of the suit property and when considered necessary and expedient by a Court and in the instant case the learned trial Court rejected the prayer on proper consideration.

In view of the above discussions I do not find any merit in this petition and accordingly, it is dismissed.

The interim order stands vacated.